

**ARKANSAS SENATE**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of Senate Bill No. 525**

"AN ACT TO AMEND ARKANSAS CODE PERTAINING TO CAPITAL IMPROVEMENTS."

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**Amendment No. 1 to Senate Bill No. 525.**

Amend Senate Bill No. 525 as originally introduced:

Delete everything after the enacting clause and substitute

"SECTION 1. Arkansas Code Title 19, Chapter 4, Subchapter 14 is amended to add an additional section to read as follows:

19-4-1414. (a) In the event funds from any sources are provided to state agencies for projects which exceed five million dollars (\$5,000,000) excluding the cost of land, the provisions of this subchapter and of all other provisions of the Arkansas Code governing construction of public facilities, including, but not limited to, the provisions of §§ 22-9-201 through 22-9-212, shall, at the election of state agencies or the institutions of higher education set forth in subsection (b), not be applicable to the projects if the selection and contracting process set forth in this section is followed.

(b)(1) No contract for projects between the state agency and the construction manager, general contractor, architect, or engineer shall be entered into without first obtaining approval of the Arkansas State Building Services and review by the Arkansas Legislative Council.

(2) The Arkansas State Building Services shall have involvement in the selection and contract process from the project inception.

(3) There shall be separate contracts for design and construction services.

(4) Arkansas State Building Services shall have the authority to promulgate rules and regulations pertaining to the process for awarding and overseeing the contracts.

(5) The Board of Trustees of the University of Arkansas and the Board of Trustees of Arkansas State University shall be exempt from review and approval by Arkansas State Building Services and any regulations promulgated by it, provided that the institutions shall have adopted policies and procedures involving the awarding and oversight of the contracts for design and construction services.

(6) All procedures pertaining to the contracts shall provide, to the extent practicable, substantial uniformity between these institutions with respect to the policies and procedures to be followed.

(c) For all projects contemplated or contracted for, Arkansas State

Building Services shall:

(1) Review and approve the advertisement as stated in subsection (d)(1) of this section, the scope of work, the site selection, funding review, and, to the extent available, all project drawings, plans, and specifications prior to any solicitation of proposals for the project;

(2) Conduct on-site inspections of the construction project on a regular basis to ensure that the project complies with the contract documents and records;

(3)(A) Review and approve all contract amendments and payments.

(B) State agencies shall submit a summary of all contract amendments to the Arkansas Legislative Council.

(4)(A) The institutions of higher education, stated in subsection (b), shall perform all duties and responsibilities stated in subdivisions (c)(1) through (3) under policies and procedures adopted by their governing boards.

(B) They shall submit a summary of all contract amendments to the Arkansas Legislative Council.

(d) The selection procedures for the construction manager, general contractor, architect, or engineer shall provide for solicitation for qualified, licensed professionals to submit proposals and the procedures shall assure the design and completion of the project in an expeditious manner while adhering to high standards of design and construction quality. The state agency and the institutions of higher education stated in subsection (b) shall:

(1) Publish notice of its intention to receive written proposals three (3) consecutive days in a newspaper of statewide distribution;

(2) Allow a minimum of ten (10) working days for the professionals to send letters or resumes in response to newspaper advertisement; and

(3) Provide additional means of notification, if any, as the state agency or institution of higher education stated in subsection (b) shall determine is appropriate.

(e)(1)(A) A pre-selection committee, which shall be composed of no more than three (3) members from the state agency and two (2) members from Arkansas State Building Services shall review the proposals.

(B) A pre-selection committee for institutions of higher education stated in subsection (b) shall consist of at least three (3) members as determined by each of the institutions, and the members may be from Arkansas State Building Services.

(C) The committee shall select a maximum of five (5) applicants and schedule interviews.

(D) The state agency or an institution of higher education as stated in subsection (b) shall notify the finalists of their status.

(2)(A) The final selection committee shall be composed of the (3) three members from the state agency on the pre-selection committee.

(B) The final interviews shall be held at the time and date as designated by the final selection committee.

(C) Representatives of Arkansas State Building Services may attend the final selection meeting, but shall not vote in the final selection process.

(D) The final selection committee for institutions of higher education stated in subsection (b) shall consist of at least three (3)

members as determined by each of the institutions.

(E) Members of a pre-selection committee may also serve as members of the final selection committee of the institutions.

(F) In selecting a general contractor, construction manager, architect or engineer, the state agency or institution of higher education as stated in subsection (b) shall consider their established criteria which shall include, but are not limited to, the following:

(i) The experience of the professional or professionals in similar projects;

(ii) The record of the professional or professionals in timely completion of the projects with high quality workmanship; and

(iii) Other similar matters to determine that the professional or professionals will complete the project within the time, budget and to the specifications set by the state agency or institution of higher education as stated in subsection (b).

(3)(A) The final selection committee shall select or make a formal recommendation to its governing body of the professional or professionals which it determines to be in the best interest of the state.

(B) Contracts for professional services shall be negotiated on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices without the use of competitive bidding, and no rule or regulation shall inhibit the agency's authority to negotiate fees for the services.

(C) The final selection committee for the institutions of higher education as stated in subsection (b) shall make a recommendation to its governing board or appropriate committee thereof of the professional or professionals which it determines to be in the best interest of the institution, and the governing board shall make the final decision and authorize the contract or contracts to be negotiated and awarded unless it has delegated the action to a committee of the board.

(f)(1) Construction contracts for the projects shall not be entered into without a payment and performance bond in the amount of the contract and any amendments thereto, and shall provide for the manner in which the construction shall be managed and supervised.

(2) All project architects and engineers shall be properly licensed in accordance with the Arkansas State Board of Architects and the Arkansas State Board of Engineers.

(3) The construction manager or general contractor shall be properly licensed by the Arkansas Contractors Licensing Board.

(4) All subcontractors on the project shall be properly licensed by the Arkansas Contractors Licensing Board.

(g) To enable a state agency or an institution of higher education as stated in subsection (b) to qualify under this section, the funds shall be paid to or for the benefit of the state agency or institution of higher education, or to a fund or foundation for the benefit of the state agency or institution of higher education, and the funds may be represented in whole or in part by a written pledge or commitment from a donor, provided that the state agency or an institution of higher education shall assure itself of the financial stability of the donor to fulfill the pledge or commitment.

(h) All projects constructed pursuant to the section shall, to the extent applicable, be in accordance and compliance with:

(1) Arkansas Code Title 17, Chapter 38, regulating plumbers;

(2) Arkansas Code Title 17, Chapter 33, regulating the heating, ventilation, air conditioning, and refrigeration industry;

(3) Fire Prevention Act, beginning at § 12-13-101;

(4) Arkansas Code Title 12, Chapter 80, regarding earthquake resistant design for public structure;

(5) Arkansas State Building Services-adopted Americans with Disabilities Act Accessibility Guidelines, 28 C.F.R. Part 36, Appx. A, as exists on January 1, 2001; and

(6)(A) Arkansas State Building Services minimum standards and criteria pertaining to projects constructed under this section.

(B)(i) However, institutions of higher education as stated in subsection (b) shall be exempt from these standards and criteria, provided that the institutions shall have adopted policies and procedures involving the awarding and oversight of contracts for projects under this section.

(ii) It is the intention of this section that all procedures adopted by these institutions pertaining to the contracts shall provide, to the extent practicable, substantial uniformity between these institutions with respect to the policies and procedures to be followed.

(iii) Notwithstanding anything in this subsection to the contrary, the provisions of §§ 19-4-1413, 19-11-801, 22-9-101 through 22-9-104, 22-9-213, 22-9-301 through 22-9-315, 22-9-401 through 22-9-404, 22-9-501 through 22-9-505, 22-9-601 through 22-9-604, and 22-9-701 through 22-9-702 shall remain in full force and effect and not be affected hereby.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly that a more efficient management of funds available to state agencies and institutions of higher education may be accomplished by allowing solicitation, award and contracting for certain construction projects to be conducted in a manner which assures the timely, quality completion of the projects within the budget available; and that this legislation should take effect immediately to permit state agencies and public institutions of higher education utilizing the capital improvement project process and delivery method set forth in this legislation for the benefit of the agencies and institutions of higher education. Therefore, in order to further the operational efficiencies of state agencies and public institutions of higher education in construction of capital improvement projects, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

**The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_**

**By: Senator Hill  
MG/VJF - 031620011147  
VVF238**

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**Secretary**